

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.318 OF 1993

Harshad Ratilal Parekh	Petitioner
versus	
M/s.Sanghvi Steels Limited	Respondent

Hrushikesh Nikumb i/by Kishore Jain for
respondent company.

C.D.Patel i/by A.A.Jain for petitioner.

CORAM : A.M.KHANWILKAR, J.

DATE : 18th December 2007

PC :

1. Mr.Hrushikesh Nikumb appearing for the respondents states that he has no instructions in the matter. This petition is founded on the claim arising out of goods sold, delivered and supplied from time to time under different invoices from May 1988 till May 1992. It is the case of the petitioner that the goods were duly delivered which fact came to be acknowledged by the respondent. It is further stated that no dispute regarding quantity, quality or price of the goods supplied was ever raised by the respondent, whereas, the respondent made part

payment to the petitioner. Even after giving adjustment of such payments the respondent was in arrears to the extent of Rs.40,892/- being principal amount towards value of the goods. As the payment was not forthcoming, the petitioner gave statutory notice which was duly served on the respondent. No reply has been given by the respondent to the said statutory notice though served. In the circumstances, present petition has been filed on 30th July 1993. The present petition has been duly served on the respondent.

2. The respondent filed affidavit of Managing Director Chandrakant Manganlal Sanghvi dated 16th June 1994. The only stand taken in the affidavit in reply is that the BIFR proceedings in respect of the respondent company were pending. It now transpires that the BIFR had already recommended winding up of the respondent company. Be that as it may, as the claim of the petitioner arises in relation to goods sold, delivered and supplied, the respondent were liable to pay the outstanding dues of the petitioner. The fact that the respondent failed and neglected to pay the amount in spite of statutory notice as well as service of the present petition, is amply clear from the record. In other words, the respondent is unable

to pay the outstanding debt. It is also a matter of record that the respondent company at the relevant time was before BIFR and now BIFR has recommended winding up of the respondent company.

3. Taking over all view of the matter I find no difficulty in allowing this petition in terms of prayer clauses (a) and (b). The Provisional Liquidator already appointed in the companion matter to proceed further and take action as may be warranted in law. Petition disposed off on the above terms.

(A.M.KHANWILKAR, J.)